

UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF WISCONSIN

In the Matter of the Search of

USPS Priority Mail parcel 9114901230801608709517, approximately a 12.5" x 9.5," weighing approximately 0 lbs. 3 oz. The label indicates it is from "Sammy Ethos, 9574 Rockhill Rd., Tuscon, AZ, 85701," bearing a handwritten label addressed to "James Kutzner, 4214 North Preston Hwy, Shepherdsville, KY 40165." The parcel was not shipped from Arizona. The parcel was postmarked on April 12, 2019 in San Bernardino, CA 92403. The postage paid was \$7.35

Case Number:

19-M-071

APPLICATION & AFFIDAVIT FOR SEARCH WARRANT

I, Tyler Fink, a federal law enforcement officer, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

USPS Priority Mail parcel 9114901230801608709517, approximately a 12.5" x 9.5," weighing approximately 0 lbs. 3 oz. The label indicates it is from "Sammy Ethos, 9574 Rockhill Rd., Tuscon, AZ, 85701," bearing a handwritten label addressed to "James Kutzner, 4214 North Preston Hwy, Shepherdsville, KY 40165." The parcel was not shipped from Arizona. The parcel was postmarked on April 12, 2019 in San Bernardino, CA 92403. The postage paid was \$7.35

located in the Eastern District of Wisconsin there is now concealed: **Please see attached affidavit, which is hereby incorporated by reference.**

The basis for the search warrant under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of a crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Title 21, United States Code, Sections 841(a)(1) and 843(b).

The application is based on these facts:

- ☒ Continued on the attached sheet, which is incorporated by reference.
- ☒ Delayed notice of 30 days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Inspector

Sworn to before me, and signed in my presence.

Date April 18, 2019

City and state: Milwaukee, Wisconsin

Applicant's signature

Name and Title: Tyler Fink, U.S. Postal

Judge's signature

THE HONORABLE DAVID E. JONES

United States Magistrate Judge

Name & Title of Judicial Officer

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT

I, Tyler Fink, being first duly sworn, hereby depose and state as follows;

INTRODUCTION AND BACKGROUND

1. I am a Postal Inspector with the United States Postal Inspection Service ("USPIS"). I have been employed by the USPIS since February 2017.

2. The USPIS is the primary investigative arm of the United States Postal Service ("USPS") and is charged under Title 18, United States Code, 3061 with the enforcement of laws governing the use and movement of the United States Mail, including, but not limited to, the misuse and fraudulent schemes involving the mail, crimes relating to mail fraud, identity theft, and narcotics trafficking involving the United States Mail.

3. I am currently assigned to the Milwaukee Office multi-functional team as well as being placed on the High Intensity Drug Trafficking Area (HIDTA) Interdiction Initiative Task Force. The multi-function team investigates mail theft, fraud, the theft of Postal property, prohibited mailings, controlled substances, and other matters related to the Postal Service. I have received advanced training by the USPIS in the investigation of controlled substances or proceeds/payments being transported through the United States. The Milwaukee Field Office's multi-function team has intercepted numerous parcels, which were found to contain narcotics or proceeds of narcotics trafficking and other criminal activity. Prior to my employment with the USPIS, I was employed by the Creve Coeur, MO Police Department in the Patrol Division for approximately three years as a Police Officer. While working as a Police Officer, I received extensive training in narcotics investigations.

4. I have participated in numerous complex narcotics investigations which involved violations of state and federal controlled substances laws including Title 21, United States Code,

Sections 841(a)(1) and 846, and other related offenses. I have had both formal training and have participated in numerous complex drug trafficking investigations. More specifically, my training and experience includes the following:

- a. I have utilized informants to investigate drug trafficking. Through informant interviews, and extensive debriefings of individuals involved in drug trafficking, I have learned about the manner in which individuals and organizations distribute controlled substances in Wisconsin and throughout the United States;
- b. I have also relied upon informants to obtain controlled substances from dealers, and have made undercover purchases of controlled substances;
- c. I know that drug traffickers often use electronic equipment and wireless and land line telephones to conduct drug trafficking operations;
- d. I know that drug traffickers commonly have in their possession, and at their residences and other locations where they exercise dominion and control, firearms, ammunition, and records or receipts pertaining to such;
- e. I know that drug traffickers often put their telephones in nominee names in order to distance themselves from telephones that are utilized to facilitate drug trafficking; and
- f. I know that drug traffickers often use drug proceeds to purchase assets such as vehicles, property, and jewelry. I also know that drug traffickers often use nominees to purchase and/or title these assets in order to avoid scrutiny from law enforcement officials.

5. I have been the affiant on over 50 warrants in federal court. Based on my training received at the USPIS Career Development Unit, personal experience, on the job training, and working with other Postal Inspectors and Wisconsin HIDTA drug task force officers, I know narcotics, drugs, paraphernalia, controlled substances, and moneys associated with the sale of narcotics, drugs, and controlled substances are sent through the USPS system, and I am familiar with many of the methods used by individuals who attempt to use the USPS to illegally distribute controlled substances.

PURPOSE OF AFFIDAVIT

6. This affidavit is made in support of a search warrant for the **SUBJECT PARCEL** (described below) for items which constitute the fruits, instrumentalities, and evidence of violations of Title 21, United States Code, Sections 841(a)(1) (Distribution and Possession with Intent to Distribute a Controlled Substance) and 843(b) (Unlawful Use of a Communication Facility (including the mails) to Facilitate the Distribution of a Controlled Substance). To seize: any controlled substance, and any paraphernalia associated with the manufacture and distribution of controlled substances including packaging materials and containers to hold controlled substances; proceeds of drug trafficking activities, such as United States currency, money orders, bank checks, precious metals, financial instruments; and drugs or money ledgers, drug distribution or customer lists, drug supplier lists, correspondence, notations, logs, receipts, journals, books, records, and other documents noting the price, quantity, and/or times when controlled substances were obtained, transferred, sold, distributed, and/or concealed.

PARCEL TO BE SEARCHED

7. This affidavit is made in support of an application for a search warrant for USPS Priority Mail parcel 9114901230801608709517 ("**SUBJECT PARCEL**"). The **SUBJECT PARCEL** is approximately a 12.5" x 9.5" USPS Priority Mail envelope weighing approximately 0 lbs. 3 oz. The **SUBJECT PARCEL**'s label indicates it is from "Sammy Ethos, 9574 Rockhill Rd., Tuscon, AZ, 85701." The **SUBJECT PARCEL** bears a handwritten label addressed to "James Kutzner, 4214 North Preston Hwy, Shepherdsville, KY 40165." The **SUBJECT PARCEL** was not shipped from Arizona. The **SUBJECT PARCEL** was postmarked on April 12, 2019 in San Bernardino, CA 92403. The postage paid was \$7.35.

PROBABLE CAUSE

8. I review Postal Service records and labels delivered to, and sent from, the Milwaukee area to and from source narcotic areas. I do this because I know, based on my training and experience, drug traffickers will sometimes use Priority Mail service, which is the USPS two to three-day delivery product. Based on my training and experience with the USPS, I know drug traffickers use First Class Mail, Priority Mail, Priority Mail Express delivery service because of its reliability and the ability to track the article's progress to the intended delivery point. In my training and experience, traffickers will often use fictitious names and/or addresses as well as incomplete names and addresses in an attempt to hide their trafficking efforts from law enforcement.

9. On April 14, 2019, I was made aware of the existence of the **SUBJECT PARCEL** by Drug Enforcement Administration ("DEA") Special Agent Kellen Williams ("SA Williams"). On April 12, 2019, the Honorable United States Magistrate Judge David E. Jones, Eastern District of Wisconsin, issued a search warrant to SA Williams authorizing the search of orders@247supportonline.com. On this same date, SA Williams received a large amount of emails from orders@247supportonline.com.

10. During a review of the emails from orders@247supportonline.com, SA Williams located an email thread between orders@247supportonline.com and Jim Kutzner using jimkutzner@gmail.com. On April 12, 2019, orders@247supportonline.com sent an email to Kutzner, stating "Dear James, Thank you so much for your payment! You order for 90 tablets of Tapentadol 100mg have been approved, it will be ship (sic) out today to 7307 Switch Back Road, Louisville, KY 40228..." The user of jimkutzner@gmail.com responded, "Nicole, I need to ship this package (**SUBJECT PARCEL**) to a different location. The new address is Jim Kutzner, 4212

North preston hwy, Shepherdsville, KY, 40165. Will you make sure the address gets changed?" Orders@247supportonline.com later sent an email to Kutzner, "Dear James, Your order has been shipped and this is your tracking number: 9114901230801608709517."

11. Previously on February 20, 2018, I was informed by SA Williams he conducted an undercover buy of prescription pills from orders@247supportonline.com. The pills were to be mailed to 1346 Bluebird Dr., Oconomowoc, WI 53066 via USPS Priority Mail Express parcel EL458579275US. I located the parcel and the shipping label for the parcel indicated it was sent from "Samantha White, 16074 Spruce St, Kane, PA 16735." This parcel was not shipped from Pennsylvania. It was postmarked on February 20, 2019, in San Bernardino, CA 92403. The postage paid for the parcel was \$25.50. I delivered this parcel to SA Williams. He searched and seized the parcel which was found to contain 180 dosage units of suspected 100 mg Tapentadol pills. The pills were identified as suspected Tapentadol by their physical characteristics, packaging, and prior seizures.

12. USPS regulations provide that prescription medicines containing controlled substances are permitted to be sent via the mail only by a drug manufacturer or their registered agents, pharmacies, medical practitioners, or other authorized dispensers as permitted. The inner packaging of the controlled substance is required to be marked to show the prescription number and the name and address of the pharmacy, practitioner, or other person dispensing the prescription and must be securely held within a plain outer wrapper or packaging. The previously opened parcel, containing Tapentadol, did not appear to be sent by any of the authorized agents described above and did not follow the packaging requirements. Tapentadol is listed as Schedule II controlled substances per the Controlled Substances Act.

13. The Consolidated Lead Evaluation and Reporting (CLEAR) database is a public records product which is designed for law enforcement officers in locating subjects and witnesses, verifying identities of individuals, and gathering background information for use in investigations. A search of the CLEAR database revealed no person by the name of James Kutzner lives, or has lived, at 4214 North Preston Highway, Shepherdsville, KY 40165.

14. "Tuscon" is not a city in Arizona. If the sender of the **SUBJECT PARCEL** meant to use a return address of 9574 Rockhill Road, Tucson, AZ, the return address is fictitious according to USPS records.

15. Based on my training and experience, I am aware California is a source area for controlled substances. As such, controlled substances are frequently transported from California via the USPS, and the proceeds from the sale of the controlled substances are frequently returned to California via the USPS. These proceeds are generally in large amounts of money, oftentimes over \$1000.

16. Based upon the information as outlined in this affidavit, I believe there is probable cause to indicate the contents of the **SUBJECT PARCEL** is drug related, and thus constitutes the fruits, instrumentalities, and evidence of violation of Title 21, United States Code, Sections 841(a)(1) (Distribution and Possession with Intent to Distribute a Controlled Substance) and 843(b) (Unlawful Use of a Communication Facility, including the mails, to Facilitate the Distribution of a Controlled Substance).

17. Because this affidavit is submitted for the limited purpose of securing authorization for a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are essential to establish the necessary foundation for the requested search warrant.

18. Pursuant to 18 USC §§ 3103(a) and 2705, I am requesting delayed notice of 30 days. There is reasonable cause to believe immediate notification of the execution of this warrant may have an adverse result of flight from prosecution, destruction or tampering with evidence, and/or seriously jeopardize the investigation. I believe this because the suspect(s) has a history tracking USPS services to transport the controlled substances, and this investigation involves the **SUBJECT PARCEL**'s destination address, sender address, the origin Post Office, and multiple other targets in the United States who, if they were made aware of this search warrant, may change their tactics or destroy evidence.

19. Because the investigation is ongoing and its success would be jeopardized if the contents of this affidavit were made public, I am requesting this affidavit be sealed until further order of the court.

20. The **SUBJECT PARCEL** is currently being held at the USPIS Milwaukee Domicile, located at 345 W Saint Paul Avenue, Milwaukee, WI 53201.